

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

JUL 10 2007

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY BS DEPUTY

BRADLEY PRICE BARBER,)
)
Petitioner,)
)
vs.)
)
JUSTIN JONES, D.O.C. Director,)
)
Respondent.)

No. CIV-06-1260-W

ORDER

On May 3, 2007, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation in this matter and recommended that the Court deny the Petition for Writ of Habeas Corpus ("Petition") filed by petitioner Bradley Price Barber. Barber was advised of his right to object, and the matter now comes before the Court on Barber's Objection to the Report and Recommendation.

Upon de novo review of the record, the Court concurs with Magistrate Judge Bacharach's suggested disposition of this matter. Review of the merits of Propositions One, Two, Three and Four, wherein Barber has relied upon the fourth amendment to the United States Constitution to challenge the search and seizure of evidence in this case, is barred by the decision of the United States Supreme Court in Stone v. Powell, 428 U.S. 465 (1976). Review of the merits of Proposition Five is likewise precluded by Stone, despite Barber's characterization of this proposition as an "abuse of the legal process" claim.

The Court has also examined Propositions Six (ineffective assistance of trial counsel), Seven (absence of jurisdiction resulting from lack of probable cause at

preliminary hearing), Eight (failure to direct a verdict), Nine (excessive sentence), Ten (juror misconduct) and Eleven (ineffective assistance of appellate counsel) and has considered the merits of the various theories asserted therein. In so doing, the Court finds that neither the grounds of error set forth in the Petition nor the "new claim" based upon Barbara Murray's letter and affidavit entitle Barber to the relief¹ he has requested. The Court further finds that no grounds have been advanced that warrant an evidentiary hearing.

Accordingly, the Court

- (1) ADOPTS the Report and Recommendation issued on May 3, 2007;
 - (2) DENIES the Petition file-stamped November 13, 2006; and
 - (3) ORDERS that judgment in favor of the respondent, Justin Jones, issue forthwith.
- ENTERED this 10th day of July, 2007.


LEE R. WEST
UNITED STATES DISTRICT JUDGE

¹The Court has also considered Barber's arguments pertaining to the use of, and reliance on, unpublished appellate decisions. The Court finds Magistrate Judge Bacharach's citation to these decisions did not unduly prejudice Barber and further finds that Barber's perusal and study of these decisions would not have altered the disposition of this matter.